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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,685	12/31/2003	Steven T. Adamy	55216	2168

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CHURCH & DWIGHT CO., INC.
LAW DEPT. - PATENTS
469 NORTH HARRISON STREET
PRINCETON, NJ 08543-5297

EXAMINER

REIS, TRAVIS M

ART UNIT	PAPER NUMBER
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2859

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/749,685	Applicant(s) ADAMY, STEVEN T.	
	Examiner Travis M. Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 & 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montalto et al. (U.S. Patent 3542519) in view of Preziosi et al. (U.S. Patent 4788151).

With reference to claims 1-3, & 6-8, Montalto et al. discloses a method and apparatus for determining when a consumer product (10) has reached an end to its useful shelflife comprising preparing a timing device comprising a redox indicator (col. 4 lines 73-74) within a cellulose derivative film-forming polymer (col. 5 lines 7-26) matrix exposed to air (col. 5 line 1) which reacts when exposed to air (col. 5 lines 34-44) to change color to methylene blue (col. 5 line 50); attaching the timing device to an outside surface of the consumer product (Figure 3); and observing the timing device for color changes (col. 5 lines 5-6), which color changes coincide with the end of the useful shelflife of the said consumer product (col. 1 lines 15-21); wherein the use of metal ions in redox indicators to aid in oxidation is considered useful (col. 5 lines 38-43).

Montalto et al. do not disclose a tin metal ion.

Preziosi et al. discloses a metal-complexed acetylenic compound useful as an environmental history indicator which uses tin ions (col. 3 lines 20-31). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add tin

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ions disclosed by Preziosi et al. to the redox indicator disclosed by Montalto et al. since it is particularly useful as a complexing agent.

With reference to claim 4, Montalto et al. & Preziosi et al. do not disclose the film-forming polymer has a thickness of from 5 to 50 mil. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a polymer having a thickness between 5 and 50 mil, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range" involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the polymer thickness disclosed by Montalto et al. & Preziosi et al. between 5 and 50 mil in order that oxidation occurs at a optimum rate.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montalto et al. & Preziosi as applied to claims 1-4 & 6-8 above, and further in view of Anderson (U.S. Patent App. Pub. 20050078557)

Montalto et al. & Preziosi et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-4 & 6-8 but do not disclose the matrix is attached to adhesive tape.

Anderson discloses a sensor (1) uses an adhesive tape to adhere to products (pg. 4 para. 0044 line 7). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the adhesive disclosed by Anderson to the indicator disclosed by Montalto et al. & Preziosi et al. in order to be firmly attached to a product.

Response to Arguments

5. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

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6. In response to applicant's argument that there is no suggestion to combine the references (i.e. Montalto et al. & Preziosi), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Montalto et al. provide motivation for the addition of a metal ion disclosed by Preziosi due to the usefulness in oxidation of a reactable metal ion redox indicator, as detailed above in paragraph 3.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Travis M Reis
Examiner
Art Unit 2859

tmr
January 17, 2007



RICHARD SMITH
PRIMARY EXAMINER